

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Chambers of
Leda Dunn Wettre
United States Magistrate Judge

Martin Luther King Federal
Building & U.S. Courthouse
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September 20, 2017

To: All counsel of record

LETTER OPINION & ORDER

RE: *Berrada v. Cohen et al.*
Civil Action No. 16-574 (SDW) (LDW)

Dear Counsel:

Before the Court is plaintiff's September 18, 2017 letter application seeking leave to file supplemental motion papers to two long-fully-briefed motions: (1) plaintiff's motion for reconsideration of the Court's Opinion and Order denying in part his motion to amend the Complaint to add a retaliation claim under the Fair Labor Standards Act ("FLSA"), and (2) his motion to vacate the Court's Order of May 30, 2017 finding that defendants did not require Court leave to file their Answer and Counterclaims in response to plaintiff's filing of an Amended Complaint. Plaintiff indicates that he wishes to proffer purportedly "newly discovered evidence" in support of these motions.

Although the Court has not yet issued opinions on the motions plaintiff seeks by his September 18, 2017 letter to supplement, the Court advised all counsel at the conclusion of a settlement conference on September 9, 2017 that it had determined to deny both motions and was in the process of memorializing its decisions in writing. Therefore, plaintiff's counsel sought leave to supplement motions that they were aware are no longer *sub judice*, a fact that is conspicuously omitted from their letter to the Court.¹

As the motions have been decided and opinions memorializing the Court's decisions

¹ Also not acknowledged in plaintiff's letter is that if this Court were to allow plaintiff to file supplemental motion papers on the motion for reconsideration, such motion papers would constitute the *third* separate occasion that plaintiff has moved for leave to assert the same FLSA retaliation claim that the Court has opined is futile.

are being prepared, as counsel were aware when they made this application, the Court denies as moot plaintiff's application for leave to file surreply papers. If plaintiff's counsel wish to file a new motion based on new grounds, they may do so consistent with the rules applicable to repetitive motion practice. But they are not permitted to file supplemental motion papers to present new grounds on motions they know the Court already has decided.

SO ORDERED.


Leda Dunn Wettre
United States Magistrate Judge